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WILLIAM E. JAMES
11 POINSETT AVE
#3
GREENVILLE SC 29601

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Application of :
William Edward James : DECISION ON APPLICATION
Application No. 09/674,996 : FOR
Filed: November 2, 2000 : PATENT TERM ADJUSTMENT
Attorney Docket No. 25529-02 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT under 35 U.S.C. 154(b) and MPEP 1893.03(b)(C)," filed on March 18, 2011.

The petition is **DISMISSED**.

On December 16, 2010, the Office mailed the Determination of Patent Term Extension under 35 U.S.C. 154(b) (application filed after June 7, 1995 but prior to May 29, 2000) in the above-identified application. The Notice stated that the patent term extension to date is 0 days.

Petitioner asserts:

The basis under 1.702 then is 1.702(b) "Failure to issue a patent within three years of the actual filing date ...". Under this basis, applicant believes the term extension should be: 7 years, 4 mos. 12 days assuming an issue date of Mar. 15, 2011, the relevant dates being: Nov. 3, 2003 (3 yrs. Plus 1 day after "actual filing date") and Mar. 15, 2011.

...

There were no circumstances where applicant failed to engage in reasonable efforts to conclude processing or examination of the application per 1.704.

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. The provisions do not apply to international application filed before May 29, 2000 by virtue of the requirements of 35 U.S.C. 371 having been met on or after May 29, 2000. The date on which an international application fulfills the requirements of 35 U.S.C. 371 is not the filing date, or even relevant to the filing date, of the international application. Section 4405 of the American Inventors Protection Act of 1999 provides that the amendments relating to patent term adjustment shall apply to any application filed on or after May 29, 2000, but does not provide that its patent term adjustment provisions apply to international applications filed before May 29, 2000, that complied with the requirements of 35 U.S.C. 371 on or after May 29, 2000. See Comment 6 to Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000).

Since the international filing date of this application, July 27, 1999, is before May 29, 2000, this application is not eligible for patent term adjustment due to examination delay.

Since the above-identified application did not have a successful appeal, interference or secrecy order delay, this application is not eligible for the extension or adjustment under 35 U.S.C. 154. The Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Publishing Division for processing into a patent.

Telephone inquiries on this decision should be directed to the undersigned at (571) 272 - 3231.

A handwritten signature in black ink, appearing to read "D. Wood", is positioned above the typed name.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions